IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2288 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PARIKH BHAGWATKUMAR BHIKHALAL & 1 - Petitioner(s)
Versus
APPELLATE COMMITTEE OF THE GUJARAT ELECTRICITY BOARD & 1 - Respondent(s)

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Appearance :

MR MC BHATT for Petitioner(s) : 1 - 2.
MR HS MUNSHAW for Respondent(s) : 1,
MR PREMAL R JOSHI for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 02/08/2007

ORAL JUDGMENT

The petitioners herein have challenged the action of the respondents in demanding a sum of Rs. 1,11,024/- under a bill dated 28th April, 1994.

2. Shortly stated, the facts leading to the petition are that the petitioners are the consumers of electricity supplied by the respondents. The petitioners were granted electric connection subject to certain terms and conditions agreed to between the parties. On the electric connection granted to the petitioners, the respondents carried out an inspection on 21st April, 1994. The inspecting party found that the meter was tampered. The meter was seized and sent for laboratory test. Eventually, the respondents found that the meter was tampered so as to slow down the meter recording. On that basis, as per the formula evolved by the Electricity Board, considering the last six months of average electricity consumption and additional penalty on the same for the default, a bill of Rs.1,11,024/- was raised. The petitioners paid 15% thereof and disputed the collection by filing an appeal. The departmental appeal also came to be rejected. The petitioners have, therefore, filed this petition.

3. Having heard learned advocates appearing for the parties, I find that the respondents have followed the proper procedure for inspection, seizure and testing of the meter. Through a technical opinion, it has been established on record that the meter was tampered. The respondents were, therefore, justified in raising the additional bill. Nothing has been pointed out to suggest that the calculation of the demand raised was not as per the formula evolved by

the Board and in operation at the relevant time.

4. In a writ petition, it would not be possible for this court to overrule the factual conclusions regarding the tampering of the meter. This being so, I find no illegality in the action of the respondents in raising the demand.

5. Learned advocate for the petitioners, however, submitted that the meter was changed in December, 1993 and that, therefore, the respondents could not have taken into account the entire period of six months for the purpose of calculating average electricity consumption by the petitioners. It is contended that the period after December, 1993, when the meter was changed, can only be taken into account. This contention is not backed by any rule or regulation. Independently, I see no justification for not taking into account the entire period of six months for ascertaining the average consumption of the consumer. Simply because the meter is changed – which could be for variety of reasons – there is no warrant to require that for assessing average consumption of the consumer, only the period post meter change can be taken into account.

6. In the result, I find no merit in the petition. The same is, therefore, dismissed. Rule discharged.

(Akil Kureshi, J.)

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